To be preserved for the present—

B 1.7.31

G. R. S. IX—5]

Previous references 1923 R A

File No: 29-23

Serial Nos. 15, 21, 33, 50

Later references

Legis 14-23 (160, 177, 193-194)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Four

Part B for May 1924.

SUBJECT

Petition of Sri Guru Chennabasavaiya of Tumkur appealing against the order of Dy Comr in regard to the election of Sri Basikatte Chennabasappa as a member of the R A from Tumkur Urban constituency.

Nop 68-15-B 28-5-24

To Sri Guru Chennabasavaiya
Tumkur.

States must first agree with the finding of the Dy. Comr and reject the appeal.

Mallaswamy Iyengar
6/6/24

Ee026

(1

G. R. S. III—1 1923-24

GENERAL AND REVENUE SECRETARIAT.

(RA)

NOTES.

File No. 29-23

FILE HEADING.

Appeals against elections of the Repn. Assembly.

From Mr. T. Govindaswamy Naidu, Tuticorin

No. Petn copy & 2 Re stamps Dated 11.3.24 Received 15.3.24 17

Diary No. 4026 Enclos. two Spare Copies. Serial No. 15.

BRIEF ABSTRACT OF LETTER.

Appeals against the decision of the Deputy Commissioner Tuticorin in re: the election of Mr. Bhaskaratte Chandrabandhar, as a Member of the RA from Tuticorin Urban Constituency.

NOTES AND ORDERS.

1 Orders of the L & L Secy. thereon

2. "Call for records"

(Sd-T) Bon 18/3/24

3 Draft submitted.

4 Issue cag 18/3

E. SCB 18/3.

NOTES—First Sheet.

G. R. S. III-2

4220 2

2

General and Revenue Secretariat.

R.A File No. 29 of 1923.

Serial No.	
21	To The D.C. Trichinopoly Dist Letter no. P. 5235 dt 19.3.24 Forwards for report with records the appeal petition of Mr. T. Gurunchennabasavaiah with all its enclosures.
33	From the D.C. Trichinopoly Dist Rc 346/23—24 dt 24.3.24 With reference to penal above forwards the entire file of records connected with the election appeal petition of Mr. T. Gurunchennabasavaiah. 5 Submitted for perusal & orders with references only flagged. 6 The Dy Coll. Trichinopoly has held a detailed enquiry into the case & has come to the conclusion that Mr. T. Gurunchennabasavaiah the appellant was guilty of corrupt practices. 7. The election of Mr. B. Channa-basappa was ordered to be notified by the Dy Coll. himself vide this office Mem. P.5477/Legis 14-23-158 dt 28.3.24.

NOTE—Contn. sheet.

3.4.24

(3 3)

Serial No.

8. This is an appeal against the order of the Deputy Comm^r of Tumkur, invalidating the ~~~~ election of the appellant, and declaring the opponent as duly elected.

9 In the general election the appellant got in, but the opponent filed an objection petition that the appellant's success was due to corrupt practices, that persons who were not eligible to vote, have voted, that some persons who voted have personated others who were not allowed to vote, and that the election is invalid + must be ~~~~ set aside and a fresh election ordered.

10. The Deputy Comm^r after a detailed enquiry, has come to the conclusion that the ~~~~ corrupt practices on the part of the appellant are proved & has declared the opponent who has obtained the next highest number of votes, duly elected. A number of witnesses have been examined on both sides, and the whole of the ~~~~ long one, dealing with various aspects

Serial No.

of the case.

Flag L

11 There is no doubt that Hansraj and Swarupjee who recorded their votes in appellants' favour, had no right to vote, though some of the reasons given by the Deputy Comr may not be correct. The names of these two are not in the voters' list, but they profess to have voted for their firms — Hansraj Khetaji and Raghunathji respectively. The first firm does not exist at all, though in the voters' list the name is mentioned. If a partner of a firm wanted to exercise the vote it was his look out to get his name registered in the list, on behalf of the firm. The Deputy Comr was right in excluding these votes of persons whose names do not appear in the list. (vide page 89, 6(a) of the manual for Dy Comr).

Flag X

Flag X (SR 481)

Flag N

12 The Dumba Hutcha has been allowed to vote, when the name in the list is that of Hutcha son of Lakshmanji. This is no good saying that by the person mentioned in the list

NOTE—Contn. sheet.

Serial No.

the person who voted is meant, & that the person described in the list is no more. If he was no more, the other man had no right to vote

13 Similarly in the case of another Lingaiyya. & Lingappa. There were two persons of the same description, who were entitled to vote only one name appeared in the list, and the person who resides in the town has been excluded and another who is not living there for sometime has been allowed. It was probably the former that was entered, but the latter was allowed to vote

Flag D & E

14 It is significant that all these people voted for the appellant and the man who allowed them to enter the polling booth, and who passed them on as the proper voters, is the bill-Collector of the place who prepared the list, and who is the debtor of the appellant still in his clutches.

Flag F

15 Appellant denies, no doubt, that the bill-Collector and

Flag G

Serial No.

another by name Venkata Rao, who took these people to allow them to get in on the assurance that their names appeared in the supplementary list, are not his agents. The inference is however fairly clear. The appellant sent them his manifestos and there are some witnesses who definitely depose that the appellant told the marwadis Hanmaraj and Lowmyji that their names were to be found in a supplementary list and that (they) were entitled to vote. This was when these persons were took exception to their being voters. As for Krishna, this is evidence that the appellant ~~that~~ gave him a chit. to be taken to the bill-collector who thereupon allowed him in, and the chit was taken away soon after by the appellant. Krishna himself says that:. There is also some evidence to the effect that the Appellant was inducing the voters on the ground that he would be Vice-President of the municipality so

Rayak

G..R. S. III-2]

General and Revenue Secretariat. | RA File No. 29 of 1923

Serial No.

when he would give them several facilities — viz pipe lines — domestic.

16 Though the evidence may not be entirely disinterested, the cumulative effect yet taken as a whole leaves room for a reasonable inference that the Appellant did resort to corrupt practices as defined in the rules.

17. The difference between the Appellant and Appellant was 4 Votes. If the four votes discussed above are omitted they would be lowered But, there may be many more such instances undiscovered.

18. The prayer was for declaring the election invalid and to a Separate election. The Tribunal Court has, however, declared the Appellant as elected. We can do so if he is satisfied of a corrupt practice. In a re-election to be ordered, the papers have become forged & the papers could have been sent up under rule 6(4) page 89 of the manual.

Hay X

NOTE---Contn. sheet.

4920 D

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General and Revenue Secretariat. | R# File No. 29 of 1923

Serial No.

19 Subd for orders, whether the appeal may be dismissed which it deserves to be, or a re-election ordered in case there is some doubt entertained as to the corrupt practices of the appellant. A re-election is a tedious process, and there is not much doubt about the alleged corrupt practices of the appellant, the Deputy Comr has taken considerable pains to prove it.

L L Sen

Cag
-26/4

Serial No. 1

20 In this case the grounds urged against the election are--

21 Firstly that the appellant was guilty of corrupt practices

22 Secondly that the ~~persons~~ persons who are ~~eligi~~ not-eligible to vote have voted, thirdly that the ~~same~~ some persons who voted have personified others who were not allowed to vote.

23 I have carefully perused the records and the order of the Deputy Commissioner and find that there is much substance in the objections taken. Rule 2 of Rules issued with Notification dated 7th November 1923 is as follows:--

24 "A person shall be deemed to commit a corrupt practice within the meaning of these rules:--

Flag X

(iii) Who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote."

25 The evidence on record clearly establishes that Hansraj and Sarubji whose names were not on the electoral roll have recorded their votes on the ground that they are the representatives of Messrs. Honnaji Boothaji Bin Lambaji and Ragunathji bin Andaji respectively. In the first place the former firm was no longer in existence and the members composed of the firm died about 15 years ago. Hansraj cannot therefore be said to be their agent.

Flag Z

26 As regards Sarubji he had no authority from Raghunathaji who ~~has been~~ to alive and who was not aware of his right to vote. Under Note I to Rule 2 ~~in~~ any ~~person~~ agent or partner

Flag Y

Flag W

NOTE—Contn. sheet.

4220-P

Serial No.

who wishes to exercise the vote should have been authorised by the other members of the partnership and should get his name registered in the ~~Exxxipx~~ Electoral Roll. When this has not been done their votes are clearly invalid. In this case there is evidence to show that their votes were recorded on a false representation that their names were found in the supplemental list and the appellant abetted ~~this representation through his agent.~~ the offence of this false representation through his agent.

... OFFICE,
3 ... APR. 1924
Reg. No. 1891

27 Turning now to the votes given by Hutchayya and Siddalingayya there is clear evidence to prove that these two persons were quite different from those mentioned in the electoral rolls and that they personated those found in the list.

28 As regards Hutchayya there is clear evidence to show that the appellant did give a letter to Hutchayya whose name is not found in the list and that letter was handed over to a Bill Collector who was on duty at the ~~post to admit the~~ poll for identifying voters. This Bill Collector was a debtor of the appellant and certified to the identity of Hutchayya. Hence it is clear that the appellant did procure giving of a vote in the name of a voter who is not the person giving such vote within the meaning of the rule and as such he is guilty of corrupt practices.

29 The Deputy Commissioner's action is therefore justified in setting aside the election under Rule 6 (a) and declaring one who has secured the next highest number of votes elected. -

30 The appeal may therefore be rejected.

NOTE—Contn. sheet.

Dewan / Pleased to see the ... of Chenna 29/4

G. R. S. III-21

General and Revenue Secretariat. | File No. of 19

Serial No.

13 MAY 1924

1st Member

31 Copy minute thereon expressed above. He does consider it right to revise the order passed in this case and declare the property in dispute to be duly elected.

Dewan) 32 Copies of final order issued

33 Draft submitted

34 Draft submitted

Issue

50 To Mr. T. Gurnchennabasaviah
Money Lender & Ml. Councillor, Tumkur
No. P. 6575 dt 28. 5. 24.
Informs that Govt after a careful perusal of the records connected with the appeal agree with the DC in finding & reject the appeal.
No. P. 6576 dt 28-5-24. 7 copies to DC. Tumkur & returns the records.

NOTE—Contn. sheet.

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Election Appeal No. of 1923-24.

*****

Appellant:- T. Guruchannabasaviah.

Vs.

Respondent:- Mr. Bhavikatte Chennabasappa.

..*.*.*.*.*

The appellant begs to appeal from the order of the Deputy Commissioner, Tumkur District, in Objection Petition No. 10 of 1923-24, on the following grounds:-

1. The Deputy Commissioner is wrong in holding that Hutchaiya, Son of Lakshmaiya is not the same person as has given the vote at the polling in the face of the evidence of Bill Collector Chikkannaiya (O.W.) who is admittedly the person who has prepared the voter's list and who swears that it is this person whose name was included there, the other Hutchaiya being dead more than 4 years ago. It is natural for such persons as have no legal fathers to adopt some such name. The Bill Collector had submitted the voter's name without the father's name in the first instance

and when he was asked to supply his father's name, he went to the man and was given the - name of Lakshmaiya. The man that has now exercised the vote is a landholder as mentioned in the voter's list whereas the deceased Hutchaiya was not.

2. The Deputy Commissioner is wrong in holding that Siddalingaiya bin Sivalingaiya is not the proper person inasmuch as - the Bill Collector Chikkannaiya (O.W.) who - prepared the voter's list swears in his evidence that it was this very person whose name was included in the list. This man's name, his - father's name and other qualifications mentioned in the voter's list refer only to this man, the other person's name being Siddalingappa and his qualification being only trade whereas the qualifications of the person who has exercised the vote being agriculture. The other person has got an alias "Bujjaiya".

3. The Deputy Commissioner is wrong in holding that the votes of these two persons are invalid on the ground of their being wrong persons inasmuch as they are the correct persons.

4. The Deputy Commissioner is wrong in holding that the votes of Hansraj and Swarupjee are invalid inasmuch as they represented the firms of Honnaji Bhothaji and Raghunathjee bin Andaji respectively. Even if these two votes

votes are considered invalid and deducted from the number of votes which the appellant has secured, it still gives him a majority by TWO votes.

5. The Deputy Commissioner is wrong in holding that the appellant is guilty of corrupt practice in inducing the above persons to vote for him on the interested testimony of the witnesses on the other side. In fact there is no evidence worth mentioning regarding this point.

Deposition of 8 P.W.s, 13 witnesses Plaintiff No. 0

6. The Deputy Commissioner is wrong in holding that the Bill Collector was an instrument in the hands of the appellant and as such lent himself to helping the appellant in the face of the evidence that the appellant has obtained a decree against him and got him arrested also.

Page 79 of (Deposition of Dw. 1) Plaintiff 0

7. The Deputy Commissioner's remarks against the character of the appellant who is a respectable and influential man is quite uncalled-for and unnecessary.

8. The Deputy Commissioner is wrong in believing the interested and discrepant evidence of the witnesses for the petitioner and in not believing the evidence of the witnesses for the appellant.

9. The order of the Deputy Commissioner is against LAW, weight of Evidence and probabilities

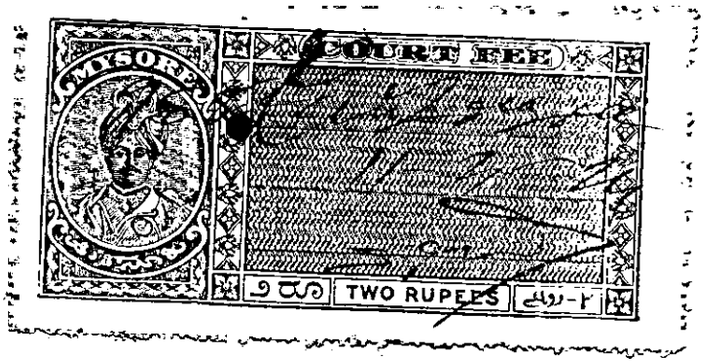
probabilities of the case.

The appellant respectfully - prays that for these and other reasons , the order of the Deputy Commissioner may be set aside and declare the election of the appellant is valid and ought to be - given effect to, with all costs.

BANGALORE,
11th MARCH 1924.

J. Gurumurthappa

APPELLANT.



16

IN THE COURT OF THE Government Mysore at Bangalore
Of His Highness The Maharaja OF TUMKUR

1923 - 1924 ನೇ ಇನವಿ ನಂಬರು.

VS

ಮಾ॥ ಹೆಚ್. ಮಂಕಟರಾಮ್ಮಯ್ಯ, ಬಿ. ಎ., ಬಿ. ಯೆಲ್, ಅಡ್ವೋಕೇಟ್ಸರವರಿಗೆ

ಬರಸಿಕೊಟ್ಟ ವಕಾಲತ್ತ್ನಾಮೆ.

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನನ್ನ ಪರವಾಗಿ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ಅರ್ಜಿ ವಗ್ಯೆರೆ ಕೊಟ್ಟು ವಿವಾದಿಸಿ ಫೈನಲ್ ಹೊಂದತಕ್ಕ ಬಗ್ಗೆ ನನಗೆ ಸಲ್ಲತಕ್ಕ ಡಿಕ್ರಿ ಮೊಬಲಗಿಗೆ ಜಾರಿಕ್ರಮ ನಡಿಸತಕ್ಕ ಬಗ್ಗೆ ದಸ್ತೈ ವಜು ವಗ್ಯೆರೆ ತಗೆದುಕೊಂಡು ರಸೀತಿ ಕೊಡುವುದಕ್ಕೂ ಕೋರ್ಟಿನಿಂದ ವಾಪಸು ಆಗತಕ್ಕ ದಾವಾಸ್ಟಾಂಪು, ಪ್ರೋಸೆಸ್ಸ್ ಸ್ಟಾಂಪು, ಸಾಕ್ಷಿ ಭತ್ಯ ಮತ್ತು ಡಿಕ್ರಿ ಮೊಬಲಗು ವಗ್ಯೆರೆ ಇತರ ವಿಧವಾದ ಎಲ್ಲಾ ಮೊಬಲಗುಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ಸಹಾ ತಮಗೆ ಇದರಿಂದ ಅಧಿಕಾರಕೊಟ್ಟಧೇನೆ. ಆದ್ದರಿಂದ ತಾವಾಗಲೀ ಅಥವಾ ತಮಗೋಸ್ಕರ ಮತ್ಯಾವ ಲಾಯರಾಗಲೀ ನನಿಗೋಸ್ಕರ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಖುದ್ದು ಕಿದ್ದು ನಡಿಸಿದಂತೆ ಒಪ್ಪಲು ಇದರಿಂದ ಬದ್ಧನಾಗಿರುತ್ತೇನೆ.

ರಾಜಿ Gubbi Kadalekoppalu Ramaiya

ಈ ಮೊಕ್ತ್ಯಾರ್‌ನಾಮೆ ಕೊಟ್ಟವರು ನನಿಗೆ ಪರಿಚಯಸ್ತರು
ನನ್ನ ಸಮುಕ್ಷಮ ಇದಕ್ಕೆ ರುಜು ಮಾಡಿದ್ದಾರೆ

ಅಂಗೀಕರಿಸಿ ಇರುತ್ತೇನೆ.

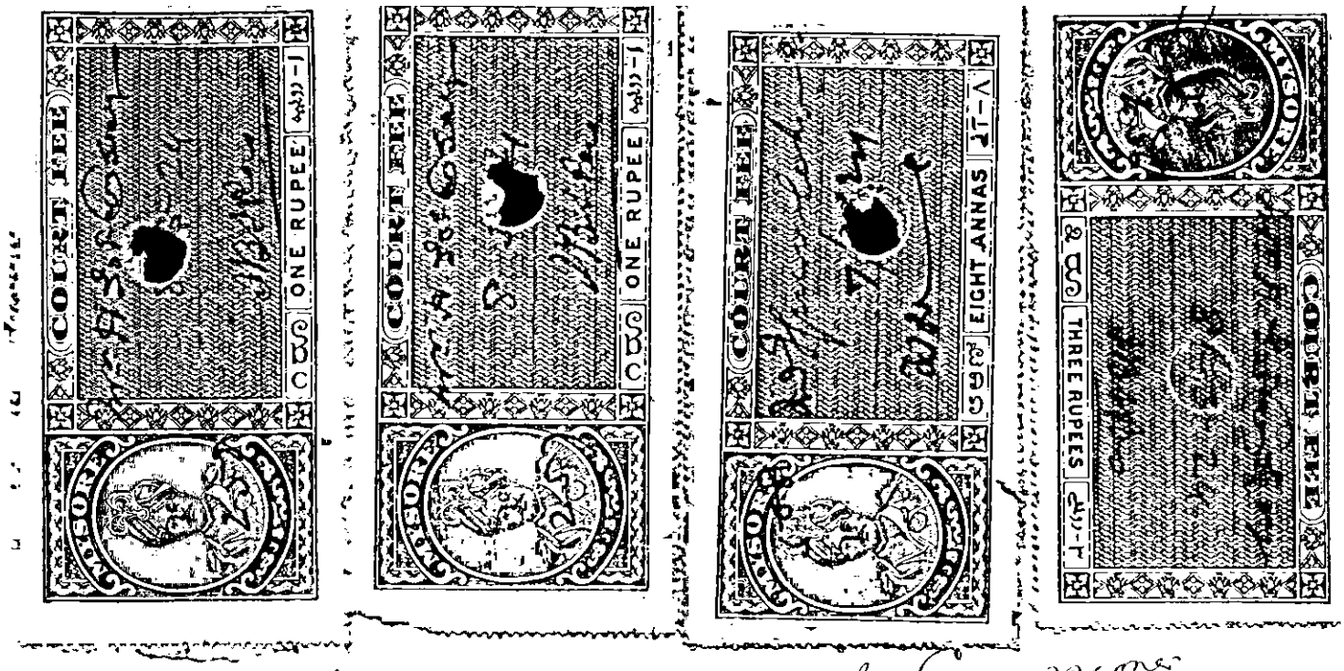
H. Venkatamma

ತಾರೀಖು 4 - 3 - 1924

11-3-24

H. Venkatamma
ADVOCATE.

ಮೈಸೂರ್ ಆರ್ಮ್ಸ್ ಪ್ರೆಸ್, ತುಮಕೂರು. 1000—18-4-1922



In the Court of the Deputy Commissioner
Tumkur District

Present: Mr Zahiruddin Mecci. Esqr B.A.
Deputy Commissioner. Tumkur District

Objection Petition No 10/1923-24

Petitioner — Counter Petitioner

Petitioner:
Mr Bhavikatte
Chennabasappa

Vs Mr D. Gurucharnabasavayya

The petitioner presented a petition on the 16th February 1924 through his advocate Mr K. Raja Iyengar praying objection against the return of Mr D. Gurucharnabasavayya by the Tumkur Municipality alleging among other grounds that:

(a) That the opponent conspires with the persons appointed to help the polling officer to identify the voters, and allowed as many persons whose names were not in the list to vote.

(b) That several Marwadi servants were allowed to vote for their masters.

(c) That Messrs D. C Revanna, Venkatrao and Sriramalingaiah who were close friends of the opponent also aided him in bringing many persons to the polling booth.

(d) That the opponent induced the voters to vote for him by using threatful language and offering them favours when he became the Vice President

(e) That one Siddalingaiah residing in Arlepet Tumkur, who had gone for voting was sent back and another man from Lepparahalli was

Upparahalli was made to vote for the opponent

(J) That the opponent in collusion with the Vice President used all sorts of means to induce voters to vote for the latter :—

(K) That though many voters were absent from the Sabha on 15-2-1924 & the personating the real voters were allowed to vote.

(L) That the Vice. President interfered at the time of Scrutiny of the votes, and made matters worse and that as the above amounted to Corrupt practices, the election of the opponent may be set aside and a re-election ordered.

2 The following exhibits were filed on behalf of the petitioner.

A. Manuscript the list of voters.
A1 Khata of Hutchayya bin Lakshmayya (Page 43)
A2 Khata of Siddalingappa — Page 4

For the Counter Petitioner

B. Slip containing the printed name of Mr Gurucharana basavayya
B1. Manifesto of the - Counter - petitioner
B2 Name of voter No 586 in the printed list of voters page 8.
B-3 Name of Doddabasappa Hirehalli in the printed list of voters page 7.
B 4 Petition of Mr Gurucharanabasavayya addressed to the Chief Secretary.
B 5. Endorsement dated 9.11.1921 granted to the Counter-petitioner by the President Tumkur Municipality.
B 6. Petition addressed to the managing Committee of Municipality by the Counter-petitioner

H.C. OF THE TUMKUR DISTRICT.

B7. Endorsement to Mr. Gurusiddabasarayya by the Municipal President dated 7-10-1921

B8 Khata of Siddalingaiah. Demand Register No. 868.

B9. Khata of Donkar Huchayya. Demand Register No. 553

B10. Khata of Honnaji. Bhutaji Demand Register No. 1041

B11 Khirdi page 64. Payment of tax by Honnaji. Bhutaji

B12. Voting paper No. 209.

Order

For the sake of convenience it seems better to decide first about the question of the validity or otherwise of the votes that have been challenged by the petitioner, viz those given by P.W.2 Narasaraj for Honnaji. Bhutaji bin Lambaji No. 678 in the electoral Roll as published in the Government Gazette ii by P.W.3 Sarooppji for Raghunathji bin Andaji No. 681 iii by Huchaia for Donkar Huchia bin Lakshmia, No. 481 and iv by Siddalingaiah for Siddalingaiah bin Siddalingaiah No. 566 of the same roll.

2. To take these in their order, admittedly Honnaji. Bhutaji died about 15 years ago and has not been seen in Dummur during this period. He was succeeded by one Lakaji, father of P.W.2 and after his death a number of partners to including the witnesses have been conducting the business. It is strange that in spite of this, the name of Honnaji. Bhutaji has continued to be

shown in the Municipal records of the Khirdi
for 1922-23 Exhibit B. and has now found
entry in the Electoral Roll. It is contended
for the petitioner that Nanaji Bhutaji being
long dead P.W. 2 has no right to exercise the
right of voting for the deceased. It is pleaded
for the opponent that Nanaji Bhutaji should
be taken as denoting a firm and Hanasaraj
as having votes as its representative. It is
contended for the petitioner that there is no
provision under which a partner in a firm
can claim to vote as its representative in
an urban constituency like Jamkhed and that
Note 1 to Rule 2 of Notification No. P 2397 Hazk
dated 7. 11. 1923 prescribing the qualification
for the representation of a joint Hindu family
or Partnership by the Manager or partner thereof
respectively applies only to a rural constituency.
It is observed that Rule 3 of the notification
which relates to an urban constituency
contains no such rule as Rule 2 - If it was intended
to be of general application, as to relate to
both the constituencies, it would have found place
under Rule 1. Hence the plea put forth for the
opponent must fail. If P.W. 2 considered himself
entitled to exercise the right and did not find
his name in the Electoral Roll, it was his duty
immediately after its publication in the Government
Gazette to have taken steps as per provisions
of Rule 6 Part I of Notification No. P 2399 Hazk
dated 7. 11. 1923 to have his name registered
as an elector. Having failed to do so he
cannot now claim to exercise such a right for.
as per Rule 9. Part I of the same Notification

OFFICER OF THE DISTRICT. COLLECTOR.

only such persons shall be entitled to vote for any constituency at an election, as have been registered in the Electoral Rolls for the time being in force for that Constituency. 11.3 - Again Rule 8 Part II A. relating to the conduct of elections, which is applicable to both the Urban and the Rural Constituencies further provides that Voters must vote in person. It is seen from Counterfoil No. 22 that he has signed therein as "Nonaji. Bhutaji, Dastakhat Nanasraj" meaning apparently that he has exercised the right for Nonaji. Bhutaji. Apart from the fact that Nonaji. Bhutaji dies 15 years ago, the evidence of P.W. 2 himself negatives any presumption that he was exercising the right as the representative of the firm known by that name, as according to him for the past 25 years, at any rate, the firm has been known as "Sohan Lal Nanasraj" and not only all consignments of cloth here are received from outside to this new address, but the Income-Tax and the Octroi to the Municipality are also being paid in this new name. He cannot therefore pretend to take advantage of the name mentioned by mistake, in the Electoral Roll of ~~a different~~ firm, to vote for; or in the name of that firm as a representative of the new firm that has succeeded to the right title and interest - He says further to claim to have a general power of attorney to act on behalf of his firm which has not only not been proved but no authority has been quoted under which he could exercise the right of election, under the notifications governing the recent elections -

213

P.T.O.

However this vote is declared invalid on the grounds that it was given by one not entitled to vote and will accordingly be excluded.

4. A similar plea has been put forth regarding the vote recorded by Swamiji as having been on behalf of Raghunathji bin Anaji and for reasons already assigned this plea must also similarly fail. Though Raghunathji is alive, yet he left Tumkur 4 months ago, and admittedly does not know that any right to vote has to be exercised, and gave no special authority to vote to the witness, who having returned to Tumkur only a month ago, after a sojourn of no less than 4 months outside, is further disqualified under Clause 1 Rule 1 of Notification No. PD 2397 dated 7.11.23 - Flag K. His vote is similarly declared invalid and will also be excluded.

5. Now to take up the consideration of the votes recorded by Hutchia and Siddlingia. It is contended by the petitioner that the name in the Printed list corresponds to No. 554 Exhibit A in the Khata Register, who is dead, and that Shri Hutchia bearing No. 553 Exhibit B9 was allowed to vote for him, though he is not the son of Lakshmia his mother being a prostitute, and his legal father being unknown. Both these persons being Dombars and close relatives, the mention of the word Dombar in the Electoral Roll and its omission in Exhibit A, cannot be regarded as of much consequence. It is pleaded on behalf of the opponent that the petitioner's contention cannot hold good, in as much as the Electoral Roll

Flag D

OFFICE OF THE DEPUTY COMMISSIONER. 260 TUMKUR DISTRICT.

was prepared in the Municipal office, and having been duly signed and passed on to the Deputy Commissioner by the President, cannot be said to contain the names of dead persons, and as the Bill Collector D.W.3 swore that after the return of the list by Government, to rectify defects due to omission of fathers names, omission of names of those entitled to vote &c he personally went and questioned D.W.6 who told him that his father's name was Lakshmia, which was accordingly shown in the list—

6. As regards Siddalingia. It is contended by the petitioner that the name shown in the Electoral Roll corresponds to No. 39. Exhibit A2 in the Khata Register, but while he was not allowed to vote, another person of the same name bearing No. 868 in the Khata Register Exhibit B8 who has not been residing in the town; was allowed to exercise the right. It is pleaded here also that the Shanbhogue D.W. 3 who prepares the list suggests that when he prepares the list he recognises that the name shown it refers to the Khatedar No. 868, and he explains that the other person's name was left out by mistake. It may be observed here that according to this Register No. 868 is Siddalingia paying a house Tax of Rs 1/8 and No. 39 is Siddalingappa paying a house Tax of Rs 2/8. This is all the information in the Khata Register. the other details given in the Electoral Roll being probably based on D.W. 3's own information and not any record. It is remarkable that the fathers of these 2 Khatedars

have the same name viz Sivalingaih and according to O.C.3's evidence itself, both the Khatedars are known as Siddalingia, and the termination appa in Khata No. 39 cannot therefore be regarded as of much consequence, as the appellations appa and Iya are used indiscriminately in reference to one and the same name among the members of the Lingayat Community.

7. The evidence of O.C.3 Chikkanaiya has shown in what a hopeless confusion he has kept the Registers and Accounts of the Municipality in doing things pretty much as he likes - He has never been in the habit of submitting Tentative lists on the death of Khatedars and taking Steps to revise these names, even though death in any case occurred 15 years ago. Again according to his own showing on the death of Khatedars he may or may not show the names of Anubhavadars in the Registers. In fact no trouble seems to have been taken to revise the Registers and bring them up-to-date — a State of affairs requiring serious attention. According to this witness who prepares the Khata Registers for 22-23 before the Court, it is the first and the only one of its kind ever prepares for the Municipality and that he prepares it not on the basis of actually enquiring the made by going from house to house, but of the old Registers in the office, and the Electoral Roll itself was prepared on the basis of this Register! It is no wonder therefore that the list has been found so full of mistakes inaccuracies, and omissions.

OFFICE OF THE DEPUTY COMMISSIONER. TUMKUR DISTRICT.

Though as per Government orders lists of additions and omissions were forepared leg wise 3 in the Municipality, showing names which had been omitted and which had therefore to be brought on the Electoral list, and those which had been included but which had to be omitted owing to death or departure respectively, yet it seems doubtful if any real honest attempt was made by him to verify the list as a whole. It would otherwise be impossible to explain, how he retained the name of Hanuji Bhutaji, though dead, and of Rashunathji Andaji though he has left the place - How to be accounted for his failure to bring on the Supplimental list the name of the Sirdarkhejia which he says was left out by mistake. Even if it should be granted that the man whose name he shows in the list was not the one who pais Rs 2/8 as house tax to the Municipality, but one who pais only Rs 1/8. still it is clear that a mere perusal of the Khata Register would has disclosed the mistake, without any further effort on his part. It therefore seems not unlikely, that the Electoral list was based not even on the Khata Register, but on some other old list or register which can hardly be called correct or up-to-date and his attempt at revision of the Electoral list must have been quite in keeping with his usual methods, slipshod, careless & negligent.

8. It is therefore difficult to believe when he says that on receipt of the Government Order

LGN

he made it a point to go to Huteshia to ascertain his fathers name. The Government orders No. 413-2-3/Ref 1-22-2 dated 16-4-1923 in fact merely requires particulars such as fathers name or house number, necessary to identify the voters, being given. The house number being easily available, where was the need for D.W.3 to go and ascertain Huteshia's fathers name? Again Why he went fishing after his fathers name when his mothers name which would have been equally if not more effective in identifying him is not clear! A close scrutiny of the Electoral list prepared by the very witness, for the urban area of Tumkur contains the names of no less than 5 persons, with names of their mothers next to name only being shown. In fact the very name to Doddaiah Huteshia is Ramma bin Eramma (488) a little later is Jogamma Ayyappa bin Savitramma (494) then there is Thammayya bin Mallamma Sulthanmastri (No. 187) so also Seethiah bin Kanigamma Dramatic actor, (No. 290) etc. then who made him so solicitous about finding Huteshia's fathers name, leaving so many others altogether out of consideration. Again the name of Huteshia, with his fathers name Lakshmaiah and that of Huteshia without his fathers name are to be found one below the other in the Voters Register. Could this omission in the case of the latter have been due to any cause other than that this fathers name, legal or conventional, was unknown! Apparently he got on very well all these years, that he has grown old without the necessity, if not the inconvenience of pitching upon a conventional father. This attempt to foist a conventional father on Huteshia is

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is further exposed to be a pure after thought,
by his own evidence Viz when he went to record
his vote of Oct 3. at the Town Hall room, asked
him his mothers name and not his fathers!
Similarly at the Municipal Polling Officer
inside the Town Hall! This may or may not be
true, but it shows the mentality of the witness;
at any rate, that this strange idea so foisted
on him, has not taken a sufficiently strong
hold on his mind! It has been suggested
that the Electoral list shows Hatcha as also
an agriculturist which he the other Hatcha was
not. As this point is also urged in the case
of Siddalingia I may say at once, that this
information is not based on any register or
record, but on the information of D.W. 3 whose
evidence on the point is worthless. I have
therefore no hesitation in saying that Dombas
Hatcha bin Lakshmia in the list corresponds
to No 5574 in the Khata Register and found
entry into it as the other names by mistake,
184 that the attempted explanation is only an
after thought, and that P.W. 3 has stultified himself
by what he has sworn to in that respect, and he is
unworthy of belief. Now am I prepared to
accept the evidence of the opponent on this point—

Hays
Pl. 868 Q. As regards the vote recorded by Siddalingia
already referred to above, it has further to be
observed that according to D.W. 3 Siddalingia
D.W. 4 has not been living in Tumkur for the
past 7 or 8 years and inspite of the fact that
the other Siddalingia has all along been a
resident of the Tumkur Town, and is duly

2 C.V.

duly qualified as voter, further paying more to the Municipality than Rs. 4, yet as before he is ready to swear that when he prepares the list of voters he has Rs. 4 in his mind and not the other! The evidence of D.W. 4 also casts some light on the methods that were adopted regarding his vote. He has tried to overcome the point raised about in his absence from Tumkur for a long period, by putting forth a strange theory that he had converted his house in Tumkur as his Summer residence and upparahalli into his winter residence, - a theory which for his age and his position in life seems incredible not to speak of it being somewhat topsy turvy. He has again been so prevaricating in answering questions, so to show that he and those in whom he was interested, were greatly perturbed in their minds, and matters arising out of the evidence of D.W. 1 & D.W. 3, discussed and attempts made to clear them up as they were examined a day earlier. He at first denied he never met the opponent on the day of voting, going to the extent of saying that when he went to the Town Hall Mr. Malleppa gave him a ticket and another was given by some one, he could not say who it was, but later on admitted that it was given by opponent! He has given varied versions of what transpired between D.W. 3 and himself before he was let into the Town Hall to vote, showing there were doubts entertained about his being allowed to get in to vote. It is true that

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that the Siddalingaiah has not been examined, who it is alleged by the petitioner was not allowed to go in and vote. He had come to the Court and when the case was adjourned, he pleaded as he was alone and had come all the way from the Seebi Jatra, and he may not be able to come again having his shop unguarded and he absented himself on the day he had to appear, and the case was closed. While there is enough to indicate that not improbably a question arose as to who was the person to be admitted to vote for the man shown in the list of Voters, as it appeared, as already explained, to both the persons equally well. Any how O.P. 3 at the entrance allowed O.P. 4 to get in and vote and apparently as is clear from the Bill Collector's evidence, he was the final authority to decide who was to be allowed to get into the Polling office.

Para 10. But a close examination of Ext. B 8 seems to throw a strange light on the conduct and 2:4 Sl: 88C doings of O.P. 3 who has played by no means an unimportant part in this case. It is seen that the name Siddalingaiah O.P. 4 has been entered in Column 2 of the Register which according to the printed headings is meant for survey or door No. or designation of property, while Column 3 for name of occupier or owner has been left blank. Obviously in this connection, it was possible to say that O.P. 4 was not the man shown in the Electoral list and his vote might have been rejected

O.S. 2/11

as invalid. With a view to meet this
Contingency, fresh MS. Kannada headings
have been given in the several columns and the
2nd Column being thus Shows to relate to the
name of the Khatedar!! This is the only page
in the Register where such a correction has
been made in the 1st & 4 Columns of the Register.
The Vice President has sworn that the Register is
always in the Custody of O.W. 3. and the interference
is obvious as to the responsibility for these
Corrections, and as to the motive for the same. I
am of opinion that while the Vote recorded by Hutcha.
is clearly invalid. that recorded by Siddalingia,
owing to O.W 3's interference and unconscionable
doings, and his tampering of the Register is too
tainted to be considered as valid.

11. Evidence has been let in by the petitioner
to show the opponent was guilty of Corrupt
practice in the matter of the elections. Messrs
Md Adam Mallappa and Sivanna P.W's 13,- 250
8-9 have spoken to Mr Venkata Rao a Play to
friends of the opponent bringing Marwadi
witnesses O.W's 3 and 4. Hanmaraj and
Sarapaj along with the others to the Town
Hall, and to his being questioned about
the propriety of bringing them to Vote, when
their names were not in the list, and to Mr
Venkat-Rao having given out that these
names were to be found in the Supplimental
list. O.W.s 3 and 4 also depose to the
matter having come to the notice of the
opponent

OFFICE OF THE DEPUTY COMMISSIONER. TUMKUR DISTRICT.

who said their names were in the list and sent them in to vote. Mr. Venkata Rao is spoken to as having come to the Town Hall by Mr. Andrew Phillips D.W.2 who says that having recorded his vote, he went away. Mr. Venkatrao remaining behind. It is seen that Mr. Phillips has voted 16th and Mr. Venkata Rao 17th and the Marwadis shortly after, their votes being between 20 and 24. It is not unlikely that the Marwadis might have been coming behind and Mr. Andrew Phillip did not see them. Sivanna P.W.9 having voted 19th must have been present and should have seen what was going on - Gangappa P.W.11 has spoken to seeing the opponent requesting Sarafji to give his vote for him and to have told him that he was entitled to vote, while Himmaraya Gowder P.W.5 has spoken to some threat used by the opponent to the effect that he may soon assume power or perhaps as Vice President, when matters may not be quite pleasant to witness if he should not give his vote for him - It is contended on behalf of the opponent that all these are interested witnesses, and their evidence should be accepted with caution -

12. But even rejecting the evidence of these

Witness3 there is enough on record to show
serious doubt on the bonafides of the
votes recorded in favour of the opponent.
Take the evidence of Hanasraj and Sarappi.
It is clear their names are not in the Electrol
list, but Hanasraj says he was told his name
was in the list, who told him so is not
known. He says further that he does not
know the opponent and does not know
his name in fact he cannot pronounce
it! He says he votes for Mr Subbanappa,
because the other 3 Marwadis there with him
told him that Mr Subbanappa was a
good man, and their votes should be given
to him! He does not know English or
Kanada. How did he manage to record
his vote? The explanation is to be found
in the evidence of D.W. 3 Chikkannia who was 232
at the entrance, and who used to call out
the numbers of the voters as they came
for the benefit of the Polling
Officers and the latter being satisfied as
to their identity would have the votes recorded.
Though D.W. 3 denies he called out the
names of the voters, yet Hanasraj is positive
that D.W. 3 called out "Honnaji. Bhutaji"
and he went in! The Polling officer
P.W. 2 is clear on the point, that he
asked the persons who came to record
the vote

OFFICE OF THE DEPUTY COMMISSIONER TUMKUR DISTRICT.

the vote, and he said his name was Somaji Bhudaji "bin Lambaji" and he allowed him to vote - Similarly Saroopji gave out that his name was Raghunathji bin Andaji. Similar remark applies to Dombar Hutekar. Saroopji P.W. 4 says that his tailor told him his name was in the Electral list. The votes having been given in favour of the opponent, it is clear that some one was working on his behalf, in telling them their names were in the list and inducing them to vote accordingly. There can be little doubt that when they were questioned, they falsely represented to the Polling Officer that they were the persons whose names were shown in the Electral list. In view of the evidence of the Polling Officer, Hutekar P.W 6 must have similarly falsely represented to him that he was Hutekar bin Lakshmia and I cannot believe his statement that the Polling Officer asked him his mothers name - Hutekar has deposed that the opponent had given him a chit one day prior to the voting. That he showed it to the Polling Officer, and that the opponent took it back from him after he came out of the Polling Office.

2 GW

It is argued that this shows guilty Conscience on the part of the opponent, who could not have thought that Huteka was really entitled to vote. It is argued again that the opponent admittedly knew all the Marwadis quite well. and having known Nanaji Bhutaji as being dead and Rajkumarji being away, is sending the Manufacturers in these names, and his failure at the Town Hall to prevent them from recording their votes amounts to Corrupt practice. If he wanted the votes of Nanaraji and Sarafji he should have taken steps to have their names registered.

13. The Conduct of the opponent has not also been free from objection in the witness box. He says he does not recollect if he gave his cards to the Marwadis when they came to the Town Hall, and when questioned if he saw the Marwadis in the Town Hall that day, he says he saw them and a lot of persons as well but adds a rider that he was standing behind the Town Hall when they came. Similarly when asked if he had requested Huteka to vote for him he

1st 191

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He says he has requested every person who was in the list to vote for him. All this shows that he somehow fought shy of the fact meant to be elicited from him by these questions. In fact there is ample evidence to show, that the opponent was near the "Chavan" a garden in front of the Town Hall, and it is rather strange that he should have attempted to make out that he was behind the Town Hall. Specially when the Marwadis voters came in!

Plea of 283/

There can be no doubt whatever that D.W. 3 the Bill Collector was actively engaged in trying to help the opponent. Admittedly he took upon himself the sole responsibility of deciding who was entitled to vote, and let in a number of persons who had not the shadow of a right to vote. In fact his conduct amounts to active misrepresentation, and he clearly misled the Polling officer by Calling out names in the printed list when voters came, and giving him an idea that those let in are answerers to that description. It is difficult to say that the opponent was altogether unaware of what was transpiring at the entrance to the Town Hall.

VGV

Admittedly Opp. 3 is indebted to Opp 1 who had obtained a decree and had even got him arrested and put in the jail and Opp 3 got himself released on giving an undertaking that he would apply for insolvency, which he has not done yet. Clearly the sword of Damocles is still hanging on his head and it is not unlikely that he has colluded with him in trying thus to further his interests. It is rightly contended that this conduct of the Bill Collector seriously handicapped them Petitioners, as if he could get in 2 or 3 who had no right to vote, he might for aught is known get in many more of the same kind. 176

15. The contention of the opponent that Petitioner's name not having been mentioned in the petition, he should not be examined in the case and no evidence allowed thereon, is not tenable. Immediately the petitioner came to know of these irregularities; he put in his Complaint and had apparently no time to make further

OFFICE OF THE DEPUTY COMMISSIONER TUMKUR DISTRICT.

enquiries. But all the same he Last Sl 37 sufficiently indicates in the petition, the nature of his case to prevent this being regarded as a surprise ~~Spring~~ sprung by on the opponent.

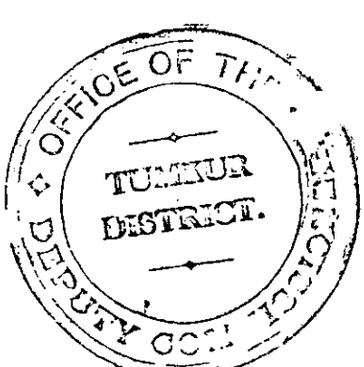
16. Under the circumstances I find the opponent guilty of Corrupt practices and order his election as invalid, and declare the petitioner Mr. B. Chennabasappa, who has secured the next highest No. of votes as the candidate duly elected -

78

In open Court.
6. 3. 1924

Sd/- Md Zahiruddin Mecci
Deputy Commissioner

4965. "True Copy"



G Ramakrishna
District Shirestadar

Copy applied for by Mr. Gurucharnabasappa
" Applied on 6. 3. 1924
Applicant told appear on 9. 3. 24
Copy ready on 9. 3. 24
Applicant Appeared on 9. 3. 24
Copy delivered on 9. 3. 24
Copied by A. Narasimhamurthi
Compared by Mr. N. J. Venkatachar
No of words 4965
Copying Fees 6-4-0
Comparing Fees 1-0-0

36

VI--G/32]

SUBJECT ..... Forwards the appeal petition of Mr. T. Gurunchemmabasavaya for report with records.

Diary No. of letter replied to 4026

General and Revenue Secretariat
(RA)
, *the* 192 .

Date of issue 19-3-1924

Signed by ..... C.A. Shanic

Section RA
File No. 29-23
Serial No. 21

No. P.S.R 37
Encl

To The Deputy Commissioner
Dharwar

Sir,

I am directed to forward in original, for report with records petition of Mr. T. Gurunchemmabasavaya dt/11.3.24 (with all its enclosures) appealing against the decision of the Deputy Commissioner in re: the election of Mr. Bharimalla Channabasappa, as

WD 0632-GPB--1500--10-8-23

39

A Member of the Repr:
Assembly from the Dunstan
Urban Constituency
Thanks

Dec 1873 For Secy to Govt
Local & Legis: Depart

List of enclosures

Copied by

Examined by

3 3,

R.A. 29-23-33.

Office of the Deputy Commissioner,

Tumkur District.

Dated Tumkur the, 24th March 1924.

Md. Zahiruddin Mecci, Esquire, B.A.,

Deputy-Commissioner, Tumkur-District. TUMKUR.

B. Nagappa, Esquire, Bar-at-Law,

Secretary to the Govt: of H.H. the Maharaja

of Mysore, Local & Legislative Departments

BANGALORE.

Referring to your letter No. 5235/R.A. 29-23-21 dated 9th instant forwarding for report the petition of Mr. T. hennabasavaih appealing against the order of this office ring the election of Mr. Bhavikatte Chennabasappa, as a r of the Representative Assembly, I have the honor to - - that the grounds 1 to 8 urged in the petition have been discussed in the order, and hence I have not attempted to t them here.

2. The entire file of records together with the petition reply and the exhibits as noted in the margin are forwarded gistered post.

Appeal petition.
Election file.
Demand Register.
Khirdi Register.

I have the honor to be,

sir,

Your most obedient servant.

For Deputy Commissioner,
Tumkur District.
(Absent from the Station.)

24/3.

1923-1924

From

The Deputy Commissioner,

Tumkur District. TUMKUR.

To

The Secretary to the Govt: of H.H. the Maharajaof Mysore, Local & Legislative Dept: Bangalore

Dated 24th March 1924.

Despatched

Received-

General No. Ele 346

No.

Enclosure No. Encl 2 already sent by Regd post.

Re: Appeal petition of Guruchennabas viah appealing against the order o this office declaring the - - election ofMr. Bhavikatte/Chennabas ppa. as member of R.A.

---000---

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to 4220

General and Revenue Secretariat
(RA)
, the 191 .

Date of issue 28/5/24

Signed by W. Clerk

C.V.

Section RA.
File No. 29-23/50.
Serial No.

No. G 6515

To M. T. Guru Channabasavia
Money lender & Municip
Councillor Tumkur

In reply to his petition
dated 11th March 1924
appealing against the
order of the Deputy-
Commissioner Tumkur
declaring M. Bhavi-
-Katte Channabasappa
as a Member of the
Rep: Assembly from

over.

the Kumta Urban
Constituency & and requesting
that the order may be
set aside and his election
declared valid Mr. Guru-
Channabasaviah is
informed that Government
have on a perusal
of the records connected
with the election and enquiry
leading to the Deputy
Commissioner's order and
on a careful consideration
of all the facts of the case
are of opinion that the
Deputy Commissioner was
right in setting aside
his election and declaring
Mr. Channabasappa as duly
elected. The appeal
is therefore dismissed
By order

List of enclosures.

Copied by

Examined by

P65-16 Encl

Sir

I am directed to forward herewith a copy of the above for Local Legislation
Copy of the above is forwarded to the
Dy Comr Kumta & for information
with Ref: to Correspondence ending with his letter
No: HC 346/23-24 & 24.3.24 & the records received therewith are returned
By order